

# Notice of Allowability

Application No.

10/542,724

Examiner

Yong Chu

Applicant(s)

KAMBE ET AL.

Art Unit

1626

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 9/26/2006.
2. ☒ The allowed claim(s) is/are 1,3-7 and 11.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

## **DETAILED ACTION**

Claims 2, and 8-10 have been canceled by the Amendment filed on 27 September 2006. Claims 1, and 3-6 have been amended by the Amendment. Therefore, claims 1, 3-7, and 11 are pending in this application.

### ***Response to Amendment***

The Amendments by Applicants' representative Fang Liu dated on 26 July 2006 and 27 September 2006 have been entered.

#### **Rejection under 35 U.S.C. §102**

Applicant's argument filed on 26 July 2006 on the ground that the chemical structure of Example 3B disclosed in U.S. Patent 6,552,067 (Cameron et al.) is different from the structure cited by the Examiner for 102(b) rejection has been considered and is found persuasive. However, as explained by the Examiner during the telephonic interview with Applicant's representative Fang Liu on 18 July 2006, the cited compound for 102(b) rejection should be Example 5A, col. 74, line 63-64 of U.S. Patent 6,552,067. Applicants have amended the claims by deleting Y as a single bond to overcome the prior art rejection. Therefore, the rejection over the claims is withdrawn.

#### **Rejection under 35 U.S.C. §103(a)**

Applicant's argument filed on 26 July 2006 on the ground that the chemical structure of Example 3B disclosed in U.S. Patent 6,552,067 (Cameron et al.) is different from the structure cited by the Examiner for 103(a) rejection has been considered and is

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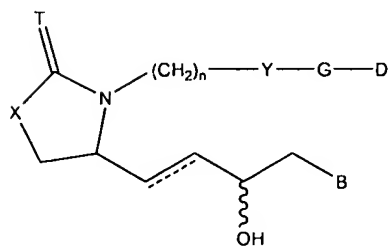
found persuasive. However, as explained by the Examiner during the telephonic interview with Applicant's representative Fang Liu on 18 July 2006, the cited compound for 103(a) rejection should be Example 5A, col. 74, line 63-64 of U.S. Patent 6,552,067. Applicants have amended the claims by deleting Y as a single bond to overcome the prior art rejection. Therefore, the rejection over the claims under 103(a) is withdrawn.

#### **Rejection over provisional double patenting**

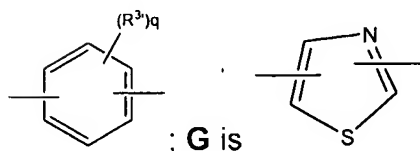
Rejection over provisional double patenting over co-pending U.S. Patent application 2005/0020686 is overcome by filing Terminal Disclaimer on 27 July 2006. Therefore, the rejection over provisional double patenting is withdrawn.

#### ***Reasons for Allowance***

The present invention is directed to a compound of the formula (I)



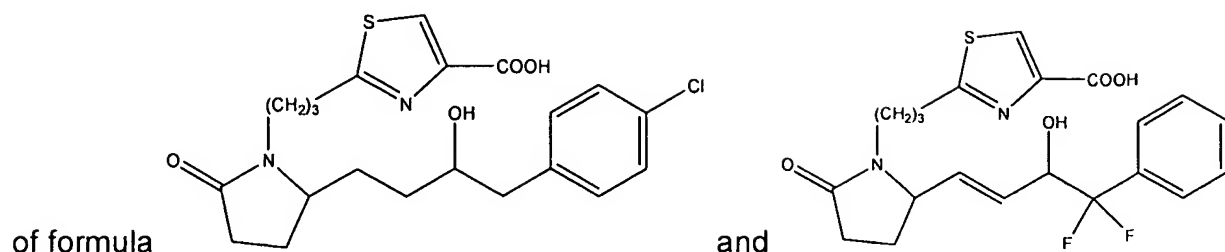
, wherein T is oxygen or sulfur; X is  $-\text{CH}_2-$ ; Y is  $-\text{S}-$ ; ring B is

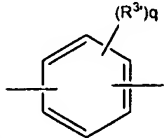


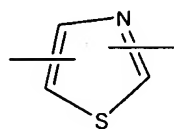
; G is ; D is  $-\text{COOR}^1$ , wherein  $\text{R}^1$  is hydrogen or  $\text{C}_{1-4}$  alkyl.

The closest prior art of record is U.S. Patent 6,552,067 (Cameron et al.) and US 2003/207925/WO 2003/077910 (Cameron et al.) Cameron et al. disclose compounds

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wherein T is oxygen or sulfur; X is  $-\text{CH}_2-$ ; Y is  $-\text{S}-$ ; ring B is ; G is



; D is  $-\text{COOR}^1$ , wherein  $\text{R}^1$  is hydrogen or  $\text{C}_{1-4}$  alkyl.

The prior art compounds are patentably distinct from the instantly claimed compounds, wherein Y is a direct bond for the prior art compound, and Y is  $-\text{S}-$  for the instantly claimed compounds. For the prior art compound,  $-(\text{CH}_2)_2-$  attaches directly to G group (1,3-thiazole), which is different from the instantly claimed compounds, wherein  $-(\text{CH}_2)_n-\text{S}-$  attaches directly to G (1,3-thiazole), as part of the core structure. Therefore, claims 1, 3-7, and 11 are allowed.

### ***Telephone Inquiry***

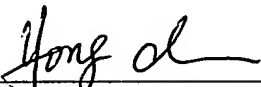
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yong Chu whose telephone number is 571-272-5759. The examiner can normally be reached on 7:00 am - 3:30 pm EST.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph K. McKane can be reached on 571-272-0699. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
\_\_\_\_\_  
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\_\_\_\_\_  
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